

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLYDE McKNIGHT,

Defendant.

CR18-16 TSZ

MINUTE ORDER

A telephonic conference was conducted on July 21, 2020, in which Assistant United States Attorney Vincent Lombardi appeared on behalf of the Government, and Gilbert Levy and Emily Beschen appeared on behalf of defendant Clyde McKnight.<sup>1</sup> The Court, being fully advised, now enters the following Minute Order:

(1) On or before August 14, 2020, the Government shall file declarations from Seattle Police Detectives Simon Edison, Stephen Knapp, and Aaron McAuley addressing the following issues: (a) whether they observed defendant Clyde McKnight engage in a hand-to-hand transaction with Confidential Source 1 (“CS-1”) on September 19 or 20, 2017; (b) whether they had a conversation with United States Drug Enforcement Administration (“DEA”) Special Agent Kevin Palermo about any observation of a hand-to-hand transaction before Agent Palermo prepared the affidavit dated November 1, 2017, in support of an application for a tracking warrant; and (c) whether they included any observation of a hand-to-hand transaction in a written report and, if not, why not. If any report by one or more of these detectives references a hand-to-hand transaction between defendant and CS-1, a copy of the report shall be attached to the declaration of the individual authoring the report.

<sup>1</sup> The Court having previously determined that defendant’s presence was not required, defendant did not participate in the telephonic conference. See Minute Order at ¶ 4 (docket no. 508).

1 (2) On or before August 14, 2020, the Government shall file a declaration  
indicating (i) whether Detective Knapp and/or McAuley will be called to testify at trial,  
2 or (ii) that the Government is unprepared to make a final decision about whether to call  
one or more of these detectives as a witness. If Detective Knapp and/or McAuley will be  
3 a witness at trial or if the Government is unprepared on August 14, 2020, to make a final  
decision about whether to call one or more of these detectives as a witness, then the  
4 Government shall produce to defense counsel, by September 4, 2020, all text messages  
between CS-1 and each detective who will or might testify. Such text messages may be  
5 redacted to ensure the safety of CS-1 and others or to protect the confidentiality of  
pending criminal investigations. Except as provided in this paragraph, the Court  
6 DECLINES to order production of any text messages between CS-1 and other members  
of the “McKnight” task force.

7 (3) On or before July 28, 2020, the Government shall provide for the Court’s  
8 *in camera* review all toll records currently in the Government’s possession relating to  
CS-1’s cell phone. The Court DEFERS ruling on whether any toll records relating to  
9 CS-1’s cell phone must be produced to the defense.

10 (4) On or before August 14, 2020, the Government shall file a declaration from  
an individual authorized to speak on behalf of CS-1’s cell phone carrier or service  
11 provider (T-Mobile) concerning: (i) the company’s retention policy for location data,  
and (ii) whether location data is still available for CS-1’s cell phone for the period of  
12 September 19-20, 2017.

13 (5) The Government is not required to produce (a) any drafts of the affidavits  
submitted in connection with warrant applications in this matter by DEA Special Agent  
14 Palermo; or (b) any reports concerning other investigations in which Detective Edison  
was involved on September 19 and 20, 2017.

15 (6) On or before August 14, 2020, the Government shall file a status report  
indicating whether the Combined DNA Index System (“CODIS”) contains contributions  
16 from any of the following individuals: Tyisha Barrett, Janet Dodd, Meiko Drew, and/or  
Janee Weathersby. Such status report may be filed under seal, provided that defense  
17 counsel is served a copy via email; defense counsel shall treat the status report as  
confidential and shall not disclose it to defendant or anyone else. The Court DEFERS  
18 ruling on defendant’s request to compel a search of CODIS with respect to samples  
recovered from the firearms at issue.

19 (7) The Court declines at this time to require the Federal Detention Center in  
20 SeaTac (“FDC-SeaTac”) to permit defendant to view the pole camera video at issue in a  
manner that would be incompatible with pandemic protocols. FDC-SeaTac may impose  
21 restrictions on the frequency and/or quantity of time that its WebEx facilities are used by  
defendant to communicate with counsel.

1 (8) The Clerk is directed to send a copy of this Minute Order to all counsel of  
2 record.

3 Dated this 21st day of July, 2020.

4 William M. McCool  
5 Clerk

6 s/Karen Dews  
7 Deputy Clerk